

REMARKS

Status of the Claims

Claims 11, 16-22 and 27-30 are presented. Claims 11, 18 – 22, 29 and 30 are amended. No claims are cancelled. No new claims are added.

Support for the amendments to the independent claims relating to the use of glycyrrhetic acid or a derivative of glycyrrhetic and benzoyl peroxide in an amount effective to synergistically control one or more of the micro-organisms associated with acne is found in the specification at page 4, lines 22 – 24 and throughout the examples.

No new matter has been introduced.

Rejections under 35 U.S.C. § 112, first paragraph

Claims 22 and 27-30, as previously presented, were rejected under U.S.C. § 112, first paragraph, because the specification, while being enabling for the treatment of acne, was not deemed to reasonably provide enablement for prevention of acne. Applicants do not necessarily agree with the Examiner's position, but in order to further prosecution of the present application at this time, applicants have accepted the Examiner's recommendation to delete the word "preventing" from the claims. Applicants respectfully reserve the right, however, to pursue claims of the same or similar scope in later prosecution of the present application or in connection with a divisional or continuing application.

In view of these amendments, applicants respectfully request that the Examiner withdraw the enablement rejection.

Rejections under 35 U.S.C. § 103(a)

Claims 11, 16-18, 20-22 and 27-29, as previously presented, were rejected under 35 U.S.C. § 103(a) as being unpatentable over Rubiralta et al.

(ES 213725; "Rubiralta") in view of Wood (New England Journal of Medicine: Drug Therapy, 1997, 336, 1156-1162).

Claims 19 and 30 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Rubiralta in view of Wood, further in view of Schaefer et al. (US 5,292,512; "Schaefer").

Applicants do not necessarily agree with the Examiner's characterization of these items of prior art. Nevertheless, in order to facilitate prosecution of the present application, and while reserving the right to present claims of the same or similar scope in a continuation or divisional application, applicants have amended the claims to require that the glycyrrhetic acid (or its derivative) and benzoyl peroxide are present in the compositions or used in the methods in amounts which achieve a synergist effect on the control of at least one of the microorganisms that are associated with acne. Applicants respectfully submit that even if a prima facie case of obviousness could have been made on the basis of this combination of references, which applicants do not concede, there is nothing in the prior art to suggest that such an important synergistic effect could be achieved by the combination that applicants have discovered. Accordingly, the claims as now pending define subject matter which is novel and patentably unobviousness.

Conclusion

In view of the above claim amendments and remarks, applicants believe that the pending claims as amended are in condition for allowance. The Examiner is respectfully requested to reconsider, withdraw the rejections and allow the claims.

If any additional fees are required in support of this application, authorization is granted to charge our Deposit Account No. 50-1943.

Respectfully submitted,

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